

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEBRASKA

ALLEN MILLER,)	
)	8:08CV311
Plaintiff,)	
)	
v.)	NOTICE OF REMOVAL
)	
DR. RAJDEEP SINGH SANDHU, M.D.;)	
DR. APAR GANTI, M.D.; DR. MARK A.)	
CARLSON, M.D.; OTHER UNKNOWN)	
MEDICAL PERSONNEL FROM)	
UNIVERSITY OF NEBRASKA MEDICAL)	
CENTER; STATE OF NEBRASKA d/b/a)	
UNIVERSITY OF NEBRASKA MEDICAL)	
CENTER,)	
)	
Defendants.)	

Pursuant to 28 U.S.C. § 2679(d)(2), the Defendants, Dr. Rajdeep Singh Sandhu, M.D.; Dr. Apar Ganti, M.D.; and Dr. Mark A. Carlson, M.D., remove to this Court the State Court civil action indicated in the attachments to this Notice.

Said Defendants represents that:

1. Dr. Rajdeep Singh Sandhu, M.D.; Dr. Apar Ganti, M.D.; and Dr. Mark A. Carlson, M.D., hereinafter referred to as the Defendants, are Defendants in the above captioned civil action which is pending in the District Court of Douglas County, Nebraska, as Case number 1082-655. No trial has yet been had in that action. Copies of all process, pleadings and orders served upon the Defendant in that action are attached to this notice as Exhibit A.

2. At all times relevant herein, Defendants were employed as physicians for the United States Department of Veterans Affairs.

3. The Plaintiff in the state court action seeks damages from the Defendants for medical malpractice negligence.

4. The Plaintiff's claim for relief allegedly arises under negligence. However, Congress has provided that the exclusive remedy for such an alleged "wrongful" act of an employee of the United States Government, acting within the scope of his employment, shall be an action against the United States under the Federal Tort Claims Act, 28 U.S.C. §§1346(b); 2671-2680 (1988). See the Federal Employees' Liability Reform and Tort Compensation Act of 1988, §5, Publ. No. 100-694, 102 Stat. 4563 (1988) [codified at 28 U.S.C. § 2679(b)(1)]. Attached hereto as Exhibit B is the certification of the United States Attorney that the Defendants were acting within the scope of their employment at time of the incident out of which the claim arose. Title 28 U.S.C. § 2679(d)(2) provides that this action shall be removed to United States District Court upon such certification.

WHEREFORE, the Defendants pray that the above-captioned action, pending in the District Court of Douglas County, Nebraska, be removed to this court.

DR. RAJDEEP SINGH SANDHU,
M.D.; DR. APAR GANTI, M.D.;
DR. MARK A. CARLSON, M.D.
Defendants,

JOE W. STECHER
United States Attorney
District of Nebraska

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REQUEST FOR TRIAL

The United States of America requests that trial of this case be held at Omaha, Nebraska, and that the case be calendared accordingly.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served on the following by mailing same this 17th day of July, 2008, by United States mail, sufficient postage prepaid.

Ryan J. Ellis, Esq.
Ellis Law Offices
209 North Buxton
Indianola, IA 50125

s/ Paul D. Boeshart
PAUL D. BOESHART #10365
Assistant U.S. Attorney